

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-516

July 23, 2003

MAINE PUBLIC UTILITIES COMMISSION
Investigation Into and Possible Redesign of
Investor-Owned T&D's Utilities Rates
Related to Conservation Expenses

NOTICE OF
INVESTIGATION

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

By this Notice, we initiate an investigation that will determine whether, and to what extent, transmission and sub transmission level customer classes of Central Maine Power Company (CMP) pay for conservation-related expenses in their rates. We also will determine if all non-distribution level customers of Bangor Hydro-Electric Company (BHE) and Maine Public Service Company (MPS) contribute to conservation-related expenses. In addition, we will determine whether special contract customers of these investor-owned T&D utilities pay for conservation-related expenses in their contract rates. If we determine that any of these customers do not pay for conservation-related expenses, or pay a disproportionately small share, we will decide whether, and how, we should redesign rates so that all customers pay for conservation assessments. If we decide that some customer classes or special contract customers should not, as a matter of law or policy, pay for conservation assessments, we will decide whether those customer classes or special contract customers should be allowed to participate in Commission-sponsored conservation programs.

II. BACKGROUND

Pursuant to the provisions of P.L. 2002, ch. 624 (the Conservation Act or Act), the Commission is directed to develop and implement electric conservation programs. The Commission is authorized to pay for the programs, including any necessary administrative costs, by assessing and collecting funds from the transmission and distribution (T&D) utilities.

The Conservation Act repealed section 3211 of Title 35-A, which had required the State Planning Office (SPO) to establish a conservation program plan and the T&D utilities to implement programs in accordance with SPO's plan. We set T&D utility rates that reflected the anticipated conservation-related expenses that the T&D utility would incur after March 1, 2000. Because of the uncertainty in timing and amount of T&D expenses for conservation-related expenses, all rate decisions involving T&D utility rates provided for deferral and reconciliation of conservation-related revenue and expenses. The SPO plan was never implemented and T&D utilities never incurred expenses to implement SPO-planned programs.

The Act authorizes, and the Commission has in fact implemented, interim programs during 2002-2003. For the interim period, the Commission decided to assess T&D utilities the amount of conservation-related expenses that were included in each T&D utility's rates, but which were not spent on utility-sponsored conservation programs. *Order on Interim Funding*, Docket No. 2002-161 (June 13, 2002). CMP's T&D rates were last set in its so-called "megacase" (Docket No. 97-580) and assumed that CMP would spend on conservation programs at the statutory maximum rate of 1.5 mils/kWh. In the BHE (Docket No. 97-596) and MPS (Docket No. 98-577) megacases, the Commission assumed that each utility would spend at the statutory minimum, or 0.5% of total T&D revenue.

In order to assess CMP, the Commission had to determine how much conservation-related revenue was collected from customers after March 1, 2000. After a series of technical conferences in Docket Nos. 2002-161 and 2002-162, the Commission Staff and CMP agreed on the amounts that had been and are currently in CMP's rates for conservation programs.¹ The agreed to collections were:

March 2000 through Dec. 2000	\$: 001523 per total kWh delivered
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On and after Jan. 1, 2001	\$.002142 per distribution kWh delivered
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The higher per kWh charge beginning in January, 2001 reflects the fact that conservation program costs were allocated entirely to CMP's distribution revenue requirement when CMP's delivery rates were unbundled into separated distribution and stranded cost rates, in *Central Maine Power Company, Request for Alternative Rate Plan (ARP 2000)*, Docket No. 99-666 (Nov. 16, 2000), and are not due to increases in the conservation program funding amount. In other words, the conservation revenue requirement was assumed to be 1.5 mils/kWh for all kWhs delivered, but was collected over only the distribution kWhs delivered. The Commission issued an Accounting Order in Docket Nos. 2002-161 and 2002-162 on Dec. 31, 2002 that described the agreement between Staff and CMP, and allowed CMP to create a regulatory liability and to defer for future flow-back to ratepayers amounts collected in rates which exceed CMP's total conservation expenditures, and to create a regulatory asset and defer for future recovery in rates any under-collections for conservation expenditures.

When BHE's rates were unbundled between distribution and stranded cost rates, in its incentive rate case (Docket No. 2001-410), conservation costs were again assigned completely to distribution rates.

MPS's alternative rate plan proceeding is still pending, so its rates have not been unbundled. However, MPS's rates must be unbundled soon, so it is important for MPS for us to decide the proper allocation of conservation costs.

On April 4, 2003, we set the funding for the so-called "on-going" programs, i.e. the programs that will replace the interim programs. *Order on Conservation Program*

¹ Letter from CMP on Nov. 15, 2002, filed in Docket No. 2002-162.

Funding, Docket No. 2002-162 (April 4, 2003). We decided that all T&D utilities will be assessed at 1.5 mils/kWh, the statutory maximum. *Id* at 5. For those utilities not yet assessed at the statutory maximum, we decided to phase-in the increased assessment. For CMP, already at 1.5 mils/kWh, the assessment remains unchanged. *Id* at 6.

In our *April 4 Order*, we observed that BHE had raised an issue as to whether non-core, special contract customers should be eligible to participate in any conservation programs and whether sales to such non-core customers should be included in calculating the assessments. We also indicated that a similar issue had been raised concerning CMP's non-core customers, as well as core customers taking service at transmission and sub-transmission voltage, because all conservation related expenses were allocated as a distribution cost when CMP's rates were unbundled into separate transmission, distribution and stranded cost rates. *Id.* at 7-8.

Prior to the *April 4 Order*, the Staff recommended that the Conservation Act be interpreted to require that all T&D customers be eligible to participate in conservation programs, and that cost allocation issues be postponed until later when the issue could be addressed in a CMP rate design or ARP annual review proceeding.

In our *April 4 Order*, we agreed with the Staff as a general matter on the participation question, although we did not reach the issue of whether such a result is required by the Act. We disagreed with the Staff that the cost allocation issue should be delayed. Conservation-related costs raise equity issues unlike other cost allocation-rate design issues because participating customers benefit more from the programs than non-participants. *Id* at 8. We can mitigate these equity concerns by implementing a portfolio of programs in which all customers are able to participate in at least one program. We also can address equity concerns by ensuring that all customers contribute to the conservation assessments. However, by our Accounting Order on Dec. 31, 2002, we allowed CMP to account for its conservation-related expenses and to continue to collect solely from distribution rates, which results in distribution customers paying more than 1.5 mils/kWh.

Because of these unique equity concerns, we decided that the cost allocation issues raised by the unbundling of CMP's rates should not wait but should be addressed immediately in a formal investigation. We stated that we would initiate an investigation to consider changing CMP's rates so that all customers pay their share of CMP's conservation assessment. *Id* at 8. We also stated in the *April 4 Order* that we would investigate whether special contract or non-core customers should pay a share of the conservation assessment. We also concluded that, if we decide that non-core customers cannot or should not be made to pay a share of the assessment, we would also investigate whether non-core customers should be allowed to participate in any conservation programs.

III. DECISION

By this Notice, we open an investigation into the rate design of CMP's, BHE's, and MPS's rates as it relates to conservation-related expenses. Specifically, we will investigate:

1. Whether, when CMP's and BHE's rates were unbundled into separate distribution, transmission and stranded cost revenue requirements, all conservation-related costs were allocated to the distribution revenue requirement?
2. If the answer to question number 1 is yes, should the Commission conclude that CMP's or BHE's customers that do not pay distribution rates do not pay for conservation-related costs?
3. If the Commission concludes that some customers pay rates that do not reflect conservation costs or reflect a substantially different share of those costs, then we would address the following:
 - a. Should the Commission redesign rates so that all customer classes similarly pay for conservation-related expenses? or
 - b. If rates are not redesigned to allocate conservation-related costs to all customers, should the Commission permit the customer classes that do not pay for conservation-related expenses to participate in conservation programs?
4. For MPS, we must decide how to allocate conservation costs among the unbundled rates, and decide programs participation questions depending on how costs are allocated.
5. What are the answers to questions 2 and 3 above as they relate to special rate contract and other non-core customers?

As the investigation concerns CMP's, BHE's, and MPS's rates, these affected utilities will be made parties to the case at the outset. Other persons who desire to participate in the proceeding must file a petition to intervene. Such petitions must be filed with the Administrative Director, 242 State Street, Augusta, Maine 04333 by August 5, 2003 and served on CMP at Regulatory Affairs, 83 Edison Drive, Augusta, Maine 04336 or regulatoryservices@cmpco.com, BHE at 33 State Street, PO Box 932, Bangor, Maine 04401 and Maine Public Service Company at PO Box 1209, Presque Isle, Maine 04769. Each petitioner to intervene must comply with section 722 of chapter 110 of our Rules.

An initial case conference will be held at the Commission on August 7, 2003 at 1:30 p.m. The purpose of the conference will be to rule on petitions to intervene and to discuss the orderly processing of the case, including whether evidentiary hearings will be necessary.

The Administrative Director is directed to send a copy of this Notice of Investigation to the service lists in Docket Nos. 2002-162 and 1999-666.

Dated at Augusta, Maine, this 23rd day of July, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus